

REMARKS

Reconsideration of the application is respectfully requested in view of the amendments and the discussion presented below. The amendments are supported by the application as filed and no new matter has been added by any of the amendments.

Claims 1 and 2 are amended to change the spelling of "license" from the British version to the American in order to be consistent with the rest of the claims.

Claims 1 and 2 have been amended to overcome an objection, as explained in more detail below.

Claim 28 has been amended to overcome a 35 USC 112, second paragraph rejection as further explained below.

Claims 1-11, 19-22, and 25-47 are now present in this application.

Discussion

A. The Claim for Foreign Priority

The Examiner acknowledged the Applicants' claim of priority based on European application no. 99306415.3 filed in Europe on August 13, 1999.

The Examiner noted that the Applicants have not filed a certified copy of the European application as required by 35 U.S.C. 119(b).

The instant application was filed as a 35 USC 371 national phase filing of PCT/GB00/03101, an international application filed abroad and published as WO 01/13199 A1. A copy of the face page of WO 01/13199 A1 is enclosed at Tab A.

The Applicant identified in the international application (the Hewlett Packard Company) lodged a copy of priority European application no. 99306415.3 with the International Bureau of the World Intellectual Property Organization in compliance with PCT Rule 17.1(a) or (b), as confirmed by the "Notification Concerning Submission or Transmittal of Priority Document" mailed by the International Bureau on September 21, 2000, a copy of which is enclosed at Tab B.

The MPEP states at Section 1893.03(c) II, in part, that:

The requirement in PCT Rule 17 for a certified copy of the foreign priority application is normally fulfilled by applicant providing a certified copy to the receiving Office or to the International Bureau **>or by applicant requesting the receiving Office to prepare and transmit the priority document to the International Bureau if the receiving Office issued the priority document. Pursuant to PCT Rule 17.1(a)-(b), applicant must submit the certified copy, or request the receiving Office to prepare and transmit the certified copy, within 16 months from the priority date. Where applicant has complied with PCT Rule 17, the International Bureau will stamp the face of the certified copy to indicate compliance with the rule and the date the document was received by the International Bureau. The International Bureau will then forward a copy of the stamped certified priority document to each Designated Office that has requested such document. *The U.S. Patent and Trademark Office, as a Designated Office, will normally request the International Bureau to furnish the copy of the certified priority document upon receipt of applicant's submission under 35 U.S.C. 371 to enter the U.S. national phase. The copy from the International Bureau is placed in the U.S. national stage file. The copy of the stamped priority document sent to the U.S. Patent and Trademark Office from the International Bureau is acceptable to establish that applicant has filed a certified copy of the priority document.* The examiner should acknowledge in the next Office action that the copy of the certified copy of the foreign priority document has been received in the national stage application from the International Bureau. (*emphasis added.*)

The emphasized portions of this statement from the MPEP indicate that the USPTO “normally” requests a copy of the stamped certified priority document from the International Bureau when the USPTO is the designated office, and that this copy is equivalent to the applicant having directly filed the certified priority document. The Applicants do not have to file the certified priority document.

The Examiner is requested to positively state in the next office action whether a copy of the certified copy of the foreign priority document has been received from the International Bureau,

whether it has been placed in the national stage application, and whether it satisfies the requirements for a certified copy in order to perfect the claim for priority.

B. The Objection to Claims 1-2

The objection to claims 1 and 2 has been overcome by amending these claims to use “means plus function” limitations as the Examiner suggested. Withdrawal of this objection is respectfully solicited.

C. The Rejection of Claim 28 under 35 USC 112, Second Paragraph

Claim 28 was rejected as being indefinite because it “is a method claim which recites the structure of an apparatus, beginning at the transitional phrase ‘having’ on the third line of the claim.” Claim 28 has been amended to delete most of the structural recitations following “having” as being unnecessary although all of the method limitations remain. This rejection should be withdrawn.

D. The Rejection of Claim 29 over England, et al.

Claim 29 is directed to a computer platform and is rejected as being under 35 USC 102(e) as being anticipated by U.S. Patent 6,820,063 to England, et al. (“England, et al.”).

England, et al. do not teach or suggest at least the following limitations of claim 29.

First, England, et al. do not teach or suggest the limitation “*a trusted module which is resistant to internal tampering and which stores a third party's public key certificate.*” The Examiner identifies the Digital Rights Management Operating System (DRMOS) of England, et al. as the “trusted module.” The DRMOS of England, et al. is an operating system loaded onto the CPU 201 (see England, et al. at Fig. 2 and col. 8, lines 59-62). The DRMOS “provides key-secured storage for permanently stored content to prevent unauthorized access to the content. For temporarily stored content, the DRMOS 205 prevents an untrusted process from reading the memory holding the content.” Col. 9, lines 15-19.

In general, the DRMOS controls downloading of license-related code and ensures, by a process of key-controlled access management, that such license-related code is used only in

accordance with license conditions. England, et al. discuss the performance of the DRMOS in the "System Level Overview" at col. 8, line 25 to col. 10, line 47.

The DRMOS is software. It is clearly is not a "trusted module which is resistant to internal tampering."

The Examiner later acknowledges that "the computer platform of England, et al. does [*sic*] not teach a trusted module (tamper resistant key module) which is resistant to internal tampering and which stores a third party's public key certificate" in his discussion of the same limitation in claim 1 (compare numbered paragraph 16 on page 8 of the office action to the contrary statement with respect to claim 29 in numbered paragraph 6 on page 4 of the office action).

Because the DRMOS is not a trusted module, it also does not meet the claimed limitation of "wherein the means storing the license-related code and/or the means storing the hashed version of the license-related code are provided, at least in part, by the trusted module."

Second, England, et al. do not teach or suggest at least the limitations of claim 29 concerning checking the integrity of license-related code:

"means storing a hashed version of the license-related code signed with the third party's private key"

The Examiner refers to Fig. 1B ("Subscriber Unit 124") and identifies "Nonvolatile Memory 142" containing "Secure Storage 184" and "S/W Program(s)" as providing these means. However, England, et al. do not disclose that these memory components of the "Subscriber Unit 124" are used to store "a hashed version of the license-related code signed with the third party's private key."

"wherein the computer platform is programmed so that, upon booting of the platform: the license-related code is integrity-checked with reference to the signed version and the public key certificate"

The Examiner states that Fig. 3 and col. 11, lines 37-46 of England, et al. disclose this limitation. England, et al., however, do not disclose *integrity-checking* with the use of *"a hashed version of the license-related code signed with the third party's private key"* (the "signed version") and the "public key certificate." The signature of a component mentioned in col. 11, lines 37-46 is a key-controlled access management that does not check the integrity of the code by matching a hash of the code against a trusted hash value.

"if the integrity check fails, the license-related code is prevented from being loaded"

Furthermore, England, et al. do not teach or suggest integrity checking of license-related code upon the booting of the computer platform. The England, et al. system is directed to a boot process in which the DRMOS is loaded in a secure manner (thus, the reference to compromise by "someone attempting to circumvent the boot process").

The Examiner states that Fig. 3 and col. 11, lines 37-46 of England, et al. disclose this limitation. This is not the case. The cited section of England, et al. merely states that if the "signature is not valid" but the component must be loaded "the operating system will not assume the identity of a DRMOS upon completion of the boot process." Col. 11, lines 42-46.

To anticipate a claim, the reference must teach every element of the claim and the elements in the reference must be arranged as required by the claim. M.P.E.P. § 2131. England, et al. do not teach or suggest at least the limitations quoted from claim 29. The Section 102(e) rejection of this claim over the England, et al. reference should be withdrawn for at least this reason.

E. The Rejection of Claims 30, 31, 33, 35, 37, 38, and 40 over England, et al.

Claims 30, 31, 33, 35, 37, 38, and 40 were rejected under 35 USC 103(a) as being unpatentable over England, et al. These claims all depend from claim 29, either directly (claims 30, 31, 33, 35, and 37) or indirectly (claims 38 and 40). As shown above, the office action incorrectly concluded that "England, et al. teach the computer platform of claim 29."

Section 2143.03 of the M.P.E.P. ("All Claim Limitations Must Be Taught or Suggested") states that

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

A *prima facie* case of obviousness cannot be made out for claims 30, 31, 33, 35, 37, 38, and 40 because the Examiner has not shown how England, et al. teach or suggest all of the limitations of the base claim for these claims.

Claims 30, 31, 33, 35, 37, 38, and 40 teach further limitations to those disclosed in independent claim 29. At this point it is unnecessary to discuss whether those further limitations are taught or made obvious by England, et al. because England, et al. do not teach the limitations of claim 29.

The Section 103(a) rejection of claims 30, 31, 33, 35, 37, 38, and 40 should be withdrawn.

F. The Rejection of Claims 1, 3-6, 8, 9, 21, 22, and 26 over England, et al. in view of Graunke, et al.

Claims 1, 3-6, 8, 9, 21, 22, and 26 were rejected under 35 USC 103(a) as being unpatentable over England, et al. in view of U.S. Patent 6,820,063 to Graunke, et al. ("Graunke, et al.").

The Examiner acknowledges that "the computer platform of England, et al. does not teach a trusted module (tamper resistant key module) which is resistant to internal tampering and which stores a third party's public key certificate" in discussing this limitation in claim 1.

As noted above in connection with the discussion of claim 29, England, et al. also fail to disclose other limitations present in claim 1, such as the limitations of claim 1 concerning checking the integrity of license-related code: "means storing a hashed version of the license-related code signed with the third party's private key," "wherein the computer platform is programmed so that, upon booting of the platform: the license-related code is integrity-checked with reference to the signed version and the public key certificate," and "if the integrity check fails, the license-related code is prevented from being loaded."

Graunke, et al. is cited for teaching a trusted module which is resistant to internal tampering and which stores a third party's public key certificate, a limitation the Examiner acknowledges (at least in this part of the office action) not to be taught by England, et al. Graunke does not teach or suggest any of the limitations for checking the integrity of license-related code and for at least this reason the combination of Graunke, et al. and England, et al. does not teach or suggest the claimed invention.

Furthermore, Graunke, et al. teaches a "tamper resistant key module 52" that holds a conditional use private key to allow digital content to be played on the "trusted player 42." It is not apparent how the approach of Graunke, et al. could readily be combined with the operating system

controlled approach of England, et al. It is also apparent that the motivation for combining the two approaches is impermissibly found only in the disclosure of the applicants.

For all these reasons, claim 1 is patentable and thus allowable over England, et al. and Graunke, et al.

Claims 3-6, 8, 9, 21, 22, and 26 depend from claim 1 directly (claims 3-6, 8, 21) or indirectly (claims 9, 22, and 26) and add further limitations. They are allowable as dependent claims because claim 1 is allowable as discussed above.

The Section 103(a) rejection of claims 1, 3-6, 8, 9, 21, 22, and 26 should be withdrawn.

G. The Rejection of Claims 2, 10, 11, 19, 20, 42, 43, 45, and 46 over England, et al. and Graunke, et al., and further in view of Collins, et al.

Claims 2, 10, 11, 19, 20, 42, 43, 45, and 46 were rejected under 35 USC 103(a) as being unpatentable over England, et al. and Graunke, et al. and further in view of U.S. Patent 6,378,072 to Collins, et al. ("Collins, et al.").

Claims 2, 10, 11, 19, 20, 42, 43, 45, and 46 depend from claim 1 directly (claim 2) or indirectly (claims 10, 11, 19, 20, 42, 43, 45, and 46) from claim 1 and add further limitations. They are allowable as dependent claims because claim 1 is allowable as discussed in section F above.

Collins, et al. disclose a cryptographic system in which a hash function is used in a process of secure communication over a public key infrastructure. Although hash functions are known, the context of Collins is radically different from that of the subject matter claimed in this application and the person of ordinary skill in the art would have not motivation to consider Collins, et al. if working with either England, et al. or Graunke, et al.

Collins, et al. fail to teach or suggest the limitations of claim 1 that are not taught or suggested by England, et al. and Graunke, et al.

The Section 103(a) rejection of claims 2, 10, 11, 19, 20, 42, 43, 45, and 46 should be withdrawn.

H. The Rejection of Claim 28 over England, et al. in view of Fuh, et al.

Claim 28 was rejected under 35 USC 103(a) as being unpatentable over U.S. Patent 6,820,063 to England, et al. in view of U.S. Patent 6,463,474 to Fuh, et al. ("Fuh, et al.").

Claim 28 is an independent claim that is directed to a method for transferring a license (or a key therefore) for data from a first computer platform to a second computer platform.

The Applicants are unable to address this rejection because the references to England, et al. appear to concern some other patent document. Thus, the Examiner states: “[a]s per claim 28, England et al. disclose a method comprising the steps of: setting up secure communication between the trusted modules (page 13, paragraph 0154); [etc.]” The identified patent to England, et al., U.S. Patent 6,820,063, is printed in the usual two column format with line numbering. It does not contain numbered paragraphs.

Applicants suspected that the Examiner was referring to an England, et al. reference listed in the PTO-1449 of March 14, 2003, namely U.S. Published Patent Application 2002/0012432 to England, et al., which does have numbered paragraphs. This does not appear to be the case, however, because the cited numbered paragraphs do not appear on the cited pages and do not appear to refer to the correct subject matter. The Examiner is respectfully requested to state what reference is really meant to be applied to claim 28.

Assuming that the Examiner really did mean U.S. Patent 6,820,063 to England, et al., the limitations of claim 28, including the step of deleting the license or the key, are not disclosed in that patent.

Fuh, et al. do not disclose “sending the license or the key therefor from the first trusted module to the second trusted module” and therefore does not teach or suggest a mechanism for license transfer.

The Section 103(a) rejection of claim 28 should be withdrawn.

I. The Rejection of Claim 27 over England, et al. and Graunke, et al., and further in view of DeTreville

Claim 27 was rejected under 35 USC 103(a) as being unpatentable over England, et al. and Graunke, et al., as applied to claim 21, and further in view of U.S. Patent 6,609,199 to DeTreville (“DeTreville”).

Claim 27 depends on claim 21 that in turn depends on claim 1. The rejections of claims 1 and 21 over England, et al. in view of Graunke, et al. were overcome as discussed above in section F.

DeTreville is cited for disclosure of “a removable trusted module (IC device) containing a user identity.” DeTreville discloses two-way authentication of a portable integrated circuit device to an application running on the open system and does not appear to have any other relevance. It does not provide any disclosure that supplies the deficiencies in the teachings of England, et al. and Graunke, et al. noted with respect to the rejection of claims 1 and 21.

The Section 103(a) rejection of claim 27 should be withdrawn.

J. The Rejection of Claim 44 over England, et al., Graunke, et al., Collins, et al., and further in view of DeTreville

Claim 44 was rejected under 35 USC 103(a) as being unpatentable over England, et al., Graunke, et al., and Collins, et al., as applied to claim 19, and further in view of DeTreville.

Claim 44 depends on claim 19 which in turn depends on claim 5. Claim 5 depends on claim 1. The rejections of claims 1 and 5 over England, et al. in view of Graunke, et al were overcome above in section F. The rejection of claim 19 was overcome in section G above. DeTreville is cited for disclosure of “a removable trusted module (IC device) containing a user identity.” DeTreville discloses two-way authentication of a portable integrated circuit device to an application running on the open system and does not appear to have any other relevance. It does not provide any disclosure that supplies the deficiencies in the teachings of England, et al. and Graunke, et al. noted with respect to the rejection of claims 1, 5, and 19.

The Section 103(a) rejection of claim 44 should be withdrawn.

K. The Rejection of Claim 47 over England, et al., Graunke, et al., Collins, et al., and further in view of DeTreville

Claim 47 was rejected under 35 USC 103(a) as being unpatentable over England, et al., Graunke, et al., and Collins, et al., as applied to claim 20, and further in view of DeTreville.

Claim 47 depends on claim 20 which in turn depends on claim 5. Claim 5 depends on claim 1. The rejections of claims 1 and 5 over England, et al. in view of Graunke, et al were overcome above in section F. The rejection of claim 20 was overcome in section G above. DeTreville is cited for disclosure of “a removable trusted module (IC device) containing a user identity.” DeTreville discloses two-way authentication of a portable integrated circuit device to an application running on

the open system and does not appear to have any other relevance. It does not provide any disclosure that supplies the deficiencies in the teachings of England, et al. and Graunke, et al. noted with respect to the rejection of claims 1, 5, and 20.

The Section 103(a) rejection of claim 47 should be withdrawn.

L. The Rejection of Claims 36 and 41 over England, et al. in view of DeTreville

Claims 36 and 41 were rejected under 35 USC 103(a) as being unpatentable over England, et al. in view of DeTreville.

Claims 36 and 41 depend directly (claim 36) or indirectly (claim 41, by way of claim 37) from claim 29. The rejections of claims 29 and 37 over England, et al. were overcome above in sections D and E, respectively. DeTreville is cited for disclosure of "a removable trusted module (IC device) containing a user identity." DeTreville discloses two-way authentication of a portable integrated circuit device to an application running on the open system and does not appear to have any other relevance. It does not provide any disclosure that supplies the deficiencies in the teachings of England, et al. noted with respect to the rejection of claims 29 and 37.

The Section 103(a) rejection of claims 36 and 41 should be withdrawn.

M. The Rejection of Claim 7 over England, et al. and Graunke, et al., in view of Johri, et al.

Claim 7 was rejected under 35 USC 103(a) as being unpatentable over England, et al. and Graunke, et al. in view of U.S. Patent 4,918,653 to Johri, et al. ("Johri, et al.).

Claim 7 depends from claim 1. The rejection of claim 1 over England, et al. and Graunke, et al. was overcome in section F above. Johri, et al. are cited in connection with the "dedicated communications path" between the "trusted module" and the "operating system of the platform" limitation added by claim 7. Although Johri, et al. were cited as disclosing a trusted path mechanism that allows a user to create a non-forgable and non-penetrable communication path between the user's terminal and the trusted operating system software, they do not teach or suggest the subject matter of claim 1 and thus claim 7.

The Section 103(a) rejection of claim 7 should be withdrawn.

N. The Rejection of Claims 32 and 39 over England, et al. in view of Johri, et al.

Claims 32 and 39 were rejected under 35 USC 103(a) as being unpatentable over England, et al. in view of Johri, et al.

Claims 32 and 39 depend from claim 29 indirectly via claim 30 (claim 32) and claim 37 (claim 39). The rejections of claims 29, 30, and 37 over England, et al. were overcome above in sections D and E above. Johri, et al. are cited in connection with the "dedicated communications path" between the "trusted module" and the "operating system of the platform" limitation added by claims 32 and 39. Although Johri, et al. were cited as disclosing a trusted path mechanism that allows a user to create a non-forgable and non-penetrable communication path between the user's terminal and the trusted operating system software, they do not teach or suggest the subject matter of claim 29, 30, and 37, and thus claims 32 and 39 as explained above.

The Section 103(a) rejection of claims 32 and 39 should be withdrawn.

O. The Rejection of Claim 34 over England, et al. in view of Rosenthal

Claim 34 was rejected under 35 USC 103(a) as being unpatentable over England, et al. in view of U.S. Patent 6,820,063 to Rosenthal ("Rosenthal").

Claim 34 depends on claim 29. The rejection of claim 29 was overcome in section D above. Rosenthal is cited as teaching security routines which serve to verify the integrity of a program at execution time, including a virus check, in connection with the "if the check succeeds, the secure loader is operable to perform a virus check on the particular data" limitation added by claim 34. Rosenthal does not, however teach or suggest the subject matter of claim 29.

The Section 103(a) rejection of claim 34 should be withdrawn.

Conclusion

Claims 1-11, 19-22, and 25-47 are allowable because the rejections over Sections 102(e) and 103(a) and the objections have been overcome as described above.

In view of the above, the Applicants submit that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue. The Examiner is invited to

telephone the undersigned attorney as needed in order to advance the examination of this application.

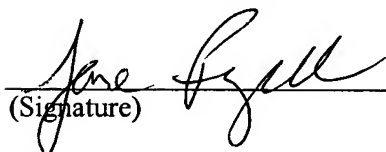
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The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on


February 17, 2006
(Date of Transmission)

Jane Penzell
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February 17, 2006
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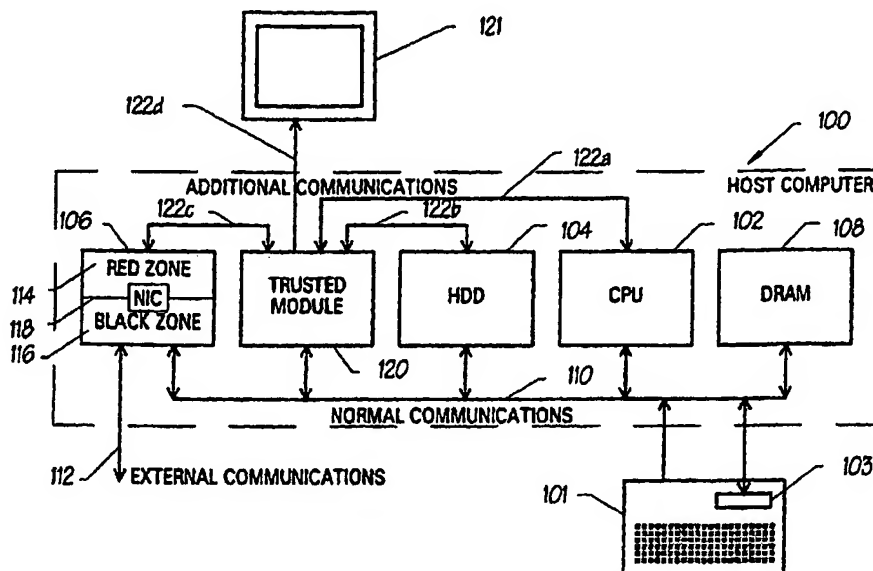
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(75) Inventors/Applicants (*for US only*): PEARSON, Siani,

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: COMPUTER PLATFORMS AND THEIR METHODS OF OPERATION



(57) Abstract: A computer platform (100) uses a tamper-proof component (120), or "trusted module", of a computer platform in conjunction with software, preferably running within the tamper-proof component, that controls the uploading and usage of data on the platform as a generic dongle for that platform. Licensing checks can occur within a trusted environment (in other words, an environment which can be trusted to behave as the user expects); this can be enforced by integrity checking of the uploading and licence-checking software. Metering records can be stored in the tamper-proof device and reported back to administrators as required. There can be an associated clearinghouse mechanism to enable registration and payment for data.

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PATENT COOPERATION TREATY

PCT

NOTIFICATION CONCERNING
SUBMISSION OR TRANSMITTAL
OF PRIORITY DOCUMENT

(PCT Administrative Instructions, Section 411)

From the INTERNATIONAL BUREAU

To:

LAWRENCE, Richard, Anthony
Hewlett-Packard Limited
Intellectual Property Section
Filton Road, Stoke Gifford
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ROYAUME-UNI

| | |
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| Date of mailing (day/month/year) 21 September 2000 (21.09.00) | IMPORTANT NOTIFICATION |
| Applicant's or agent's file reference 30990082 WO | |
| International application No. PCT/GB00/03101 | International filing date (day/month/year) 11 August 2000 (11.08.00) |
| International publication date (day/month/year) Not yet published | Priority date (day/month/year) 13 August 1999 (13.08.99) |
| Applicant HEWLETT-PACKARD COMPANY et al | |

1. The applicant is hereby notified of the date of receipt (except where the letters "NR" appear in the right-hand column) by the International Bureau of the priority document(s) relating to the earlier application(s) indicated below. Unless otherwise indicated by an asterisk appearing next to a date of receipt, or by the letters "NR", in the right-hand column, the priority document concerned was submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b).
2. This updates and replaces any previously issued notification concerning submission or transmittal of priority documents.
3. An asterisk(*) appearing next to a date of receipt, in the right-hand column, denotes a priority document submitted or transmitted to the International Bureau but not in compliance with Rule 17.1(a) or (b). In such a case, the attention of the applicant is directed to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.
4. The letters "NR" appearing in the right-hand column denote a priority document which was not received by the International Bureau or which the applicant did not request the receiving Office to prepare and transmit to the International Bureau, as provided by Rule 17.1(a) or (b), respectively. In such a case, the attention of the applicant is directed to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.

| <u>Priority date</u> | <u>Priority application No.</u> | <u>Country or regional Office or PCT receiving Office</u> | <u>Date of receipt of priority document</u> |
|-------------------------|---------------------------------|---|---|
| 13 Augu 1999 (13.08.99) | 99306415.3 | EP | 04 Sept 2000 (04.09.00) |

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| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 740.14.35 | Authorized officer V. Gross Telephone No. (41-22) 338.83.38 |
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